

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

AUGUST 6, 1997

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 97-0895

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT II**

**IN THE INTEREST OF JESSE R.J.,
A CHILD UNDER THE AGE OF 18:**

STATE OF WISCONSIN,

PETITIONER-RESPONDENT,

v.

JESSE R.J.,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Waukesha County:
KATHRYN W. FOSTER, Judge. *Affirmed.*

ANDERSON, J. Jesse R.J. appeals from a dispositional order in which he was adjudicated delinquent. Jesse contends that the juvenile court violated the requirement to show good cause before granting a continuance, and therefore, the court lost its competency to dispose of the petition. We

conclude that the record shows the requisite “good cause” for a court to grant a continuance. Accordingly, we affirm the juvenile court.

The relevant facts are as follows. On April 29 and 30, 1996, Jesse entered the Amex Trading Convention Center in Oconomowoc and destroyed substantial property. He was arrested and charged with being a party to the crime contrary to § 939.05(1), 943.02(d) and, 943.10(1)(a), STATS. On June 4, 1996, the district attorney filed the delinquency petition. The initial appearance was scheduled for June 28, 1996.

Jesse and his parents were absent from the hearing on June 28, 1996. The only appearance was that of Dean Wilcox, the case social worker. Wilcox informed the court of the ongoing confusion regarding Jesse’s correct address. The court stated that from the file it could not surmise whether Jesse had received notice of the hearing. The court tolled the time limits and rescheduled the plea hearing which was then held on July 8, 1996. On July 18, 1996, Jesse filed a motion to dismiss. On September 20, 1996, the court denied the motion. On October 23, 1996, the court found Jesse delinquent. Jesse appeals the order.

Jesse renews his argument that the juvenile court did not meet the good cause requirement when it granted a continuance at the hearing on June 28, 1996. Whether the circumstances of a case constitute good cause to grant a continuance is a question of law which we review de novo. *See Jason B. v. State*, 176 Wis.2d 400, 407, 500 N.W.2d 384, 387 (Ct. App. 1993). If good cause is shown in open court, or on the record, a continuance may be granted directly under § 48.315(2), STATS., 1993-94. *See M.G. v. La Crosse County Human Servs. Dep’t*, 150 Wis.2d 407, 418, 441 N.W.2d 227, 232 (1989).

Three things are clear from the record of the initial hearing. First, Jesse was absent from the hearing. Second, there was ongoing confusion regarding Jesse's correct address. Finally, the file before the court did not verify whether Jesse had received notice of the hearing. Thus, the record from the hearing on June 28, 1996, shows good cause for the granting of a continuance.

Having found good cause for a continuance, we now address whether the date of the rescheduled hearing was reasonable. While a court may not delay juvenile proceedings indefinitely, a court will not be deprived of competency to act if the delay is not unreasonable. *See State v. Joshua M.W.*, 179 Wis.2d 335, 343-44, 507 N.W.2d 141, 144 (Ct. App. 1993). "The question of reasonableness will of necessity vary with the circumstances of each case." *Id.* at 344, 507 N.W.2d at 144. We find the date chosen by the court not only reasonable, but advisable under these circumstances.

The court acted in Jesse's best interest by delaying the proceedings long enough for Jesse to receive adequate notice. Delay caused by the need to properly send out statutorily mandated notices and to rearrange the calendars of the court, the parties and counsel, is a reality when a hearing is continued for good cause. *See id.* In fact, given this reality, the court demonstrated commendable efficiency in its rescheduling.¹ Accordingly, the court retained its competency to adjudicate the case.

¹ We note that in addition to an official holiday, there were two weekends between the hearing on June 28, 1996, and the rescheduled hearing on July 8, 1996. Moreover, the Fourth of July holiday fell on a Thursday, and the judge was on vacation on Friday, July 5, 1996. The court rescheduled the hearing for the earliest reasonable business day available for a hearing, Monday, July 8, 1996. We also note that, from the record, it appears that the confusion regarding Jesse's address was a result of a clerical error. Both parties had Jesse's proper address. The improperly addressed notices were sent from the office of the clerk of courts. Neither the State nor Jesse can be faulted for the error, and Jesse was not prejudiced by it.

By the Court.—Order affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)4, STATS.

